

STATEMENT OF

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CONCERNING H.R. 2878

**THE ENHANCED FINANCIAL RECOVERY
AND
EQUITABLE RETIREMENT TREATMENT
ACT OF 2007**

**BEFORE THE
COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON CRIME
U.S. HOUSE OF REPRESENTATIVES**

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Chairman Scott, Ranking Member Forbes and Members of the Crime Subcommittee.

I appreciate the opportunity to appear before the Crime Subcommittee today to address the need to ensure that Assistant United States Attorneys have the necessary tools and resources to do their jobs and in so doing receive equitable retirement benefits that recognize their critical role in federal law enforcement.

I would like to share with the Members of the Subcommittee three simple observations based on my experience over the years both in government service and in the private sector.

First, attracting and retaining top talent is essential for organizations to excel, whatever their mission.

Second, the U.S. federal law enforcement system is rightly the envy of the world in terms of its effectiveness, professionalism, and values. That success is largely a function of the quality of the professionals who serve in it – both federal agents and Assistant United States Attorneys.

Third, we cannot relax in our commitment to maintaining and building on the federal law enforcement system's legacy of success, especially in view of the increasing and necessary convergence of the law enforcement and national security missions in recent years.

The legislation under consideration, the Enhanced Financial Recovery and Equitable Retirement Treatment Act, H.R. 2878, would help strengthen a key part of our law enforcement community – Assistant United States Attorneys – by

ensuring their equitable treatment and promoting the retention of talent. Of course, Assistant United States Attorneys aren't principally motivated by the salary: Most of them could quickly and appreciably increase their compensation by heading to the private sector. But we should always be pursuing reasonable steps that might increase the incentives to serve longer, allowing them to gain invaluable experience and thereby strengthening the federal law enforcement system. This bill represents such a step.

H.R. 2878 makes civil and criminal monetary judgments entered in favor of the United States, or the victims of crime, more collectible. In addition, the bill establishes for Assistant United States Attorneys a pension that is equitable to the pension received by the other federal law enforcement officers with whom federal prosecutors work. I think linking these two laudable objectives in this way represents a creative way to improve key aspects of the federal law enforcement mission.

Prior to serving as Deputy Attorney General from 2001 to 2003, I served as the United States Attorney for the Northern District of Georgia and led the Southeastern Organized Crime Drug Enforcement Task Force. These varied experiences allowed me to work directly and closely with scores of Assistant United States Attorneys through the years. It is an understatement to observe that their work in both the criminal and civil arenas is critically important and ever more complex. And September 11, 2001 has only accelerated the challenges they face. Their mission today demands increasing skill and sophistication in

investigating and prosecuting a wide range of criminal activities, including domestic and international terrorism, organized drug trafficking, firearms crimes, and sophisticated white collar offenses. On the civil side as well, the role of Assistant United States Attorneys is increasingly demanding, whether defending federal government agencies or officials, initiating civil actions against individuals or corporations which commit fraud, or enforcing civil and criminal judgments entered in favor of the United States, or the victims of crime.

If there were ever a time when experience and good judgment were demanded within our federal law enforcement ranks, it is today.

The legislation under consideration would confer upon Assistant United States Attorneys a retirement benefit equal to that received by federal law enforcement officers with whom Assistant United States Attorneys work shoulder-to-shoulder in the investigation and enforcement of federal law. The original reason for the disparity between law enforcement officer and Assistant United States Attorney retirement benefits – due to the status of Assistant United States Attorneys as political appointees when the law enforcement officer retirement credit was first created more than 50 years ago -- has long been superseded by the change in hiring of Assistant United States Attorneys as nonpolitical, merit-appointed civil servants. In fact, a report of the Attorney General's Advisory Committee in 1989 concluded:

"Clearly, career AUSAs should be authorized to receive retirement benefits afforded all of the other members of the federal law enforcement community since the majority of AUSA responsibilities

relate to the investigation, apprehension or detention of individuals suspected or convicted of criminal laws of the United States."

I believe it is crucial that there be the greatest equity possible regarding retirement benefits throughout the federal law enforcement community. The legislation under consideration today will recognize Assistant United States Attorneys for the key role they play in enforcing our nation's laws, and provide a well-deserved boost to their morale. An improved Assistant United States Attorney retirement benefit will assist United States Attorney Offices to more effectively recruit and retain skilled prosecutors, thereby developing the talent in its ranks more effectively. Such an outcome would undoubtedly strengthen their ability to perform their mission.

I would note that while I strongly support the aim of this legislation, there may be additional avenues available to Congress to promote the important objectives of equity and talent retention. I am aware that there have been constructive conversations ongoing for some time about addressing underlying compensation questions for Assistant United States Attorneys generally. I think such a review is appropriate.

The specific mechanism provided in this bill for supporting the financial basis for an improved Assistant United States Attorney retirement benefit advances another important aspect of the Justice Department's mission: Promoting the interests of victims of crime.

American taxpayers have a right to expect that those who commit fraud, harm our citizens, or commit other criminal or civil wrongdoing will be punished and that the federal government will make every reasonable effort to recover any ill-gotten gains and other assets necessary to make the victims whole. The Department of Justice has the sole responsibility to collect criminal monetary judgments, including restitution to victims, and the primary responsibility to collect civil judgments. This responsibility falls chiefly upon United States Attorney Offices. Yet, as the Government Accountability has pointed out, the amount of outstanding criminal and civil debt to be collected is large and growing.

The collection of outstanding criminal and civil debt is inherently difficult to accomplish as many debtors are incarcerated and have long since dissipated their assets. The most sophisticated debtors, generally owing the largest debts, have hidden their assets under corporate shells, the names of their close friends or associates, or the laws of foreign countries. Competing priorities and limited resources further complicate the efforts of Assistant United States Attorneys to enforce judgments entered in favor of the United States or the victims of crime. Finally, current law gives defendants no real incentive to promptly satisfy, to the best of their ability, judgments entered in federal court when they are imposed. I do think the Justice Department has made real strides in recent years to facilitate improved collection efforts and I commend their efforts.

The legislation under consideration today addresses some of these problems by authorizing a significant infusion of resources – at least \$20 million per year –

to strengthen the Department's judgment enforcement efforts and to add additional Assistant United States Attorneys to the Department's judgment enforcement efforts. The funding for these resources is generated by surcharges, or late fees, that will be imposed on unpaid judgments, as an effective way to encourage defendants to satisfy their judgments promptly. Those late fees, along with a small increase in the offsets applied against recoveries made by the Justice Department for other federal agencies, will be deposited into an Enhanced Financial Recovery Fund. That Fund will pay for enhanced judgment enforcement efforts by the United States Attorneys Offices. I think this is a sensible public policy, promoting equity, incentivizing more prompt payments by debtors, and serving the interests of the victims of crime.

In conclusion, I believe that the aims of the legislation under consideration today are deserving of the Subcommittee's consideration and support. Restoring equity to the retirement benefits of Assistant United States Attorneys is overdue, and is the right thing to do. Enhancing the Department's judgment enforcement resources will improve the collection of outstanding judgments, including fines and restitution, and will advance the administration of justice.

Thank you very much for the opportunity to share these views with the Subcommittee.